

Exhibit 17

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

BLACK LOVE RESISTS IN THE RUST, et al.,
individually and on behalf of a class of
all others similarly situated,

Plaintiffs,

vs.

1:18-cv-00719-CCR

CITY OF BUFFALO, N.Y., et al.,

Defendants.

ORAL EXAMINATION OF KEVIN HELFER

APPEARING REMOTELY FROM

BUFFALO, NEW YORK

June 22, 2022

12:00 p.m. - 5:01 p.m.

pursuant to notice

REPORTED BY:

Luanne K. Howe

APPEARING REMOTELY FROM CUYAHOGA COUNTY, OHIO

DEPAOLO CROSBY REPORTING SERVICES, INC.
716-853-5544

1 A Yes.

2 Q Okay. What do those policies cover?

3 A Well, they're somewhat voluminous, but a lot of the
4 things that we've talked about, the daily
5 administration of the department.

6 Q And who creates those policies?

7 A They were created over a period of years, I would
8 assume, because they were here when I arrived in
9 2010. And you know, with any policy, depending on if
10 something gets changed, they get updated.

11 Q And did you at times update these policies while you
12 were at parking?

13 A I'm sure I did.

14 Q What are the sources of the Department of Parking's
15 revenue?

16 A So you can get revenue from paid parking tickets.
17 You get revenue from towing and storage. You would
18 get revenue from auctioned vehicles. And you would
19 get revenue through the contract that I had talked
20 about before with Buffalo Civic Auto Ramps.

21 Q And those revenues go into the city's general fund?

22 A Correct.

23 Q Okay. And the Department of Parking's operating

1 tows as well." Do you see that?

2 A Correct.

3 Q What are LPRs?

4 A License plate readers.

5 Q Okay. And so you're saying here that the license
6 plate readers have also contributed to the number of
7 tows, correct?

8 A Correct.

9 Q And can you explain why those LPRs added to the tows?

10 A Sure. The LPRs were uploaded with data that would
11 tell if people met the threshold in terms of the
12 amount of money owed for their car to be towed. The
13 LPRs were installed on parking enforcement vehicles.
14 They'd drive down the road. If that criteria is
15 met, the LPR goes off with the alarm and the person
16 would pull over and see if indeed the car didn't pay
17 their outstanding tickets and owed a substantial
18 amount of money.

19 Q I have a few more questions about that. Were LPRs
20 used by Buffalo Police Department officers as well?

21 A Yes.

22 Q Okay. Would Buffalo Police Department officers tow a
23 vehicle if it had too many outstanding parking

1 tickets?

2 MS. RAUH: Form.

3 A They could.

4 Q And would the LPRs just check for outstanding parking
5 tickets, or would they check for other things as
6 well?

7 A On our system, we were not allowed to check for
8 anything else but outstanding parking tickets.
9 Police had a different policy.

10 Q Do you know what police LPRs checked for?

11 MS. RAUH: Form.

12 A They could check for a lot of things, stolen car,
13 expired registration. That's the little I know about
14 the police side of it.

15 Q Were LPRs viewed as a way to generate revenue?

16 A LPRs would give us a way to have people pay if they
17 were scofflaws.

18 Q So they were a way to generate revenue from people
19 who were scofflaw, correct?

20 A They were a way to get paid for people who were
21 scofflaw, yes.

22 Q Did you ever discuss the benefits of LPRs with Mayor
23 Brown?

1 into effect?

2 A I know they were definitely put into effect somewhere
3 along the line. I'm not going to say that I know for
4 certain they went into effect that fiscal year ending
5 '14.

6 Q And then I want to refer you to C at the bottom here,
7 and it says, "Our Towing and Storage rates are low.
8 This increase of \$30 on towing and \$5 on daily
9 storage rates might generate more than I am
10 anticipating id the Strike Force goes back into
11 effect." Did you mean if the Strike Force goes back
12 into effect?

13 A Yes.

14 Q Okay. And so you're saying they might generate more
15 than you budget if the Strike Force goes into effect,
16 correct?

17 A Back into effect. I think I've been very consistent
18 in trying to explain that I developed my budgets by
19 looking at previous years' statistics.

20 Obviously you showed a slide before that Strike
21 Force was taking a pause, so I'm basing this on
22 previous year analysis. It is nothing but a budget.
23 It's a roadmap. I made an editorial comment that

1 that could increase if Strike Force goes back into
2 effect.

3 Q Okay. And that's because as we looked at before,
4 Strike Force had caused tows to dramatically
5 increase, right?

6 A Yes.

7 Q Do you remember having any discussions with
8 Commissioner Estrich about the proposal regarding
9 towing and storage fees?

10 A I'm sure we talked about that. I don't recall what
11 we talked about, but certainly as you could see,
12 we're talking via this email.

13 Q Okay. Do you recall having any discussions with
14 Mayor Brown about this proposal about towing and
15 storage fees?

16 A I don't recall. It could have, could not have. I
17 don't recall that at all.

18 Q Let's do Exhibit 8. And Exhibit 8 is a June 25, 2013
19 email Bates stamped COB118655. Do you see that on
20 your screen?

21 A I do.

22 Q Okay. And I want to refer you to the -- do you see
23 the subject line here, by the way, is CitiStat?

1 officers, you know, issuing them a ticket and
2 noticing on their handheld ticket writers that they
3 were a scofflaw. It was very tough to quantify which
4 way they came in.

5 Q So was this effort to quantify revenue undertaken?

6 MS. RAUH: Form.

7 A I don't recall.

8 Q Do you recall reviewing any results from this effort?

9 A I'm sure I did.

10 Q Do you remember what they showed?

11 A No.

12 Q One of the purposes of LPR is to increase revenues?

13 MS. RAUH: Form.

14 A The purpose of the LPR was to have people comply with
15 the financial obligation for outstanding tickets.

16 Q And if people complied, that would lead to more
17 revenue for the city, right?

18 A That would be the revenue, yes.

19 MS. RAUH: Form.

20 MR. JOACHIM: Should we take a
21 five-minute break? We've been going a while,
22 Katelyn.

23 MS. RAUH: Yeah, that's fine with me.

1 A I do not think that is correct at all. This is the
2 expenditure side of the budget.

3 Q Okay. Thank you. And I want to refer to this page
4 which lists goals and activities for the Traffic
5 Violations Agency. Do you see that?

6 A Yes. This is part of the documentation that the
7 Common Council requests for submission with our
8 annual budget.

9 Q Okay. So did you have any role in putting this
10 information together?

11 A Along with Ms. Morgera, yes.

12 Q Okay. So you reviewed this before it was submitted
13 to Common Council?

14 A I should have. I assume I did.

15 Q Do you know who wrote this information?

16 A Ms. Morgera did.

17 Q Does the mayor's office also review this information
18 before it's submitted to Common Council?

19 A I cannot answer that. I know that Commissioner
20 Estrich certainly does.

21 Q And this indicates that one of the Traffic Violations
22 Agency's goals is to generate revenue, correct?

23 A Sure.

1 Q And that was one of the goals?

2 A It's one of them, yes.

3 Q Did Mayor Brown ever indicate to you that that was
4 one of the goals of the BTVA?

5 A Not specifically.

6 Q I want to ask you about the work program statistics.
7 Who compiles these?

8 A Ms. Morgera.

9 Q And what is the purpose of this information?

10 A Requested information from the Common Council for
11 submission along with our budget to the Common
12 Council.

13 Q And you'll see one of the columns here is for
14 estimates, right?

15 A Uh-huh.

16 Q And who develops these estimates?

17 A Certainly not myself. I believe those were developed
18 by the -- hold on for a second. What budget year --
19 you don't have the budget year on this.

20 Q Is that on -- it's not on the document, but I'll
21 represent to you it's 2017 to 2018.

22 A Okay.

23 Q Do you know who developed these estimates?

1 at CitiStat. Is that fair?

2 A No. You asked me who would be asking about this, and
3 I was surmising that I was probably getting prepared
4 for a CitiStat meeting.

5 Q But you don't actually remember; you're just
6 surmising?

7 A That's correct.

8 Q Okay. Do you remember if anyone asked about the drop
9 in revenue you're referring to here?

10 A I do not recall that at all.

11 Q So in the next line you say, "Obviously, I think it
12 is less tickets." Why did you think it was obviously
13 less tickets?

14 A If revenue is down, it's pretty obvious to me that
15 most likely tickets are down. Tickets drive revenue.
16 As I said to you before, our perfect world is zero
17 revenue. That means everybody is obeying the law,
18 both in parking and traffic.

19 Q Got it. Let's -- I think that's all I have on this
20 one for now. Let's move on to Exhibit 24. And this
21 is an October 12, 2017 email from you to Ms. Morgera
22 Bates stamped COB091730. And I want to refer you to
23 Ms. Morgera's -- sorry -- one, two, three -- fourth

1 STATE OF OHIO)

2 COUNTY OF CUYAHOGA)

3 I, Luanne K. Howe, Notary Public, in and for the
4 County of Cuyahoga, State of Ohio, do hereby certify:

5 That the witness whose testimony appears
6 hereinbefore was, before the commencement of his testimony,
7 duly sworn to testify the truth, the whole truth and nothing
8 but the truth; that said testimony was taken remotely
9 pursuant to notice at the time and place as herein set
10 forth; that said testimony was taken down by me and
11 thereafter transcribed into typewriting, and I hereby
12 certify the foregoing transcript is a full, true and correct
13 transcription of my shorthand notes so taken.

14 I further certify that I am neither counsel for
15 nor related to any party to said action, nor in any way
16 interested in the outcome thereof.

17 IN WITNESS WHEREOF, I have hereunto subscribed my
18 name and affixed my seal this 29th day of June, 2022.

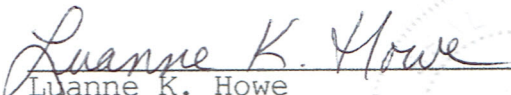
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Luanne K. Howe
Notary Public - State of Ohio

My commission expires 10-07-24

DEPAOLO CROSBY REPORTING SERVICES, INC.
716-853-5544

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

BLACK LOVE RESISTS IN THE RUST, et al.,
individually and on behalf of a class of
all others similarly situated,

Plaintiffs,

vs.

1:18-cv-00719-CCR

CITY OF BUFFALO, N.Y., et al.,

Defendants.

CONTINUED ORAL EXAMINATION OF KEVIN HELFER

APPEARING REMOTELY FROM

BUFFALO, NEW YORK

June 29, 2022

3:40 p.m. - 6:17 p.m.

pursuant to notice

REPORTED BY:

Luanne K. Howe

APPEARING REMOTELY FROM CUYAHOGA COUNTY, OHIO

DEPAOLO CROSBY REPORTING SERVICES, INC.
716-853-5544

1 A I'm sure I saw it.

2 Q Okay. You would review the work program statistics
3 before they would go to Ms. Estrich, right?

4 A Yes.

5 Q Okay. And in this email, Ms. Morgera is sending
6 BTVA's draft to Ms. Estrich, right?

7 A To Ms. Benitez.

8 Q With the expectation that Ms. Benitez would get it to
9 Ms. Estrich?

10 A I would assume.

11 Q And this draft includes the same language about
12 generating revenue we saw last week in the 2017-2018
13 work program statistics, correct?

14 MS. RAUH: Form.

15 A Correct.

16 Q Okay. So you testified yesterday that as stated in
17 this document and the other one we looked at, one of
18 the goals of BTVA was to generate revenue, right?

19 A Yes.

20 Q Where did you get that understanding that that was
21 one of the goals?

22 A Well, you wouldn't fine people -- if you're fining
23 people, you're generating revenue.

1 Q So because one of BTVA's functions was to fine
2 people, that meant that one of the goals was to
3 generate revenue; is that right?

4 A I think the law is very clear that if you're
5 speeding, there is a minimum and maximum that you can
6 fine a person.

7 Q Did anyone ever communicate to you that one of the
8 purposes of BTVA was to generate revenue?

9 A I think it's implied.

10 Q Implied in the law or implied in something else?

11 A Implied by reason of the law.

12 Q Do you recall anyone communicating that to you
13 though?

14 A No.

15 Q Okay. I want to move on to Exhibit 33. And this
16 doesn't have a header or a date, so I'll represent to
17 you that this is the final 2018-2019 budget -- it's
18 specifically the executive budget that I downloaded
19 from Buffalo's website.

20 And I want to refer you to the work program --
21 the final work program statistics for BTVA, which are
22 near the end of the document. They are here on page
23 35 of the document. Do you see that on your screen?

1 by BPD, right?

2 A Yes.

3 Q So at least in the analysis here, there's no revenue
4 numbers, correct?

5 A Correct.

6 Q So why did you believe that the number -- information
7 regarding the number of tickets was relevant to
8 Commissioner Estrich's duties?

9 A I mean, there is a supposition that a percentage of
10 tickets result in revenue for those who pay.

11 Q Would you regularly keep Commissioner Estrich updated
12 on the number of traffic tickets coming in?

13 A Anything that related to fiscal, I would communicate
14 with her and vice versa.

15 Q And the number of tickets was related to fiscal?

16 A Certainly.

17 Q And Commissioner Estrich responds, "Wow. Go Joe"?

18 A That's what it says.

19 Q And Commission Estrich responds, "Wow. Go Joe." And
20 Joe is Joe Gramaglia?

21 A Indeed.

22 Q So she's impressed with these numbers, right?

23 MS. RAUH: Form.

1 STATE OF OHIO)

2 COUNTY OF CUYAHOGA)

3 I, Luanne K. Howe, Notary Public, in and for the
4 County of Cuyahoga, State of Ohio, do hereby certify:

5 That the witness whose testimony appears
6 hereinbefore was, before the commencement of his testimony,
7 duly sworn to testify the truth, the whole truth and nothing
8 but the truth; that said testimony was taken remotely
9 pursuant to notice at the time and place as herein set
10 forth; that said testimony was taken down by me and
11 thereafter transcribed into typewriting, and I hereby
12 certify the foregoing transcript is a full, true and correct
13 transcription of my shorthand notes so taken.

14 I further certify that I am neither counsel for
15 nor related to any party to said action, nor in any way
16 interested in the outcome thereof.

17 IN WITNESS WHEREOF, I have hereunto subscribed my
18 name and affixed my seal this 7th day of July, 2022.

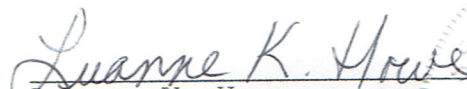
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Luanne K. Howe
Notary Public - State of Ohio

My commission expires 10-07-24

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